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c 163 The Denture Therapists Act, 1972

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CHAPTER 163

An Act to provide for the Licensing and Practice of Denture Therapists

*Assented to December 15th, 1972
Session Prorogued December 15th, 1972*

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "Board" means the Denture Therapists Licensing Board established under section 7;
- (b) "dental surgeon" means a member of the Royal College of Dental Surgeons of Ontario;
- (c) "denture therapist" means a person licensed under this Act to engage in the practice of denture therapy;
- (d) "incompetence" means the display of a lack of knowledge, skill or judgment in the professional care of a patient or disregard for the welfare of a patient of a nature or to an extent that demonstrates that the denture therapist is unfit to continue in the practice of denture therapy;
- (e) "Minister" means the Minister of Health;
- (f) "practice of denture therapy" means,
 - (i) the taking of impressions or bite registrations for the purpose of, or with a view to, the making, producing, reproducing, constructing, furnishing, supplying, altering or repairing of any removable prosthetic denture,
 - (ii) the fitting of any removable prosthetic denture, and
 - (iii) the making, producing, reproducing, constructing, furnishing, supplying, altering and repairing removable prosthetic dentures in respect of which a service is performed under subclause i or ii;

- (g) "professional misconduct" means professional misconduct as defined in the regulations;
- (h) "Registrar" means the Registrar of Denture Therapists appointed under section 3;
- (i) "regulations" means the regulations made under this Act.

Administration of Act

2. The Minister of Health is responsible for the administration of this Act.

Registrar of Denture Therapists

3. There shall be a Registrar of Denture Therapists who shall be appointed by the Lieutenant Governor in Council.

Practice of denture therapy

4.—(1) Subject to subsection 2, no person, other than a dental surgeon or a person licensed under this Act as a denture therapist, shall engage in or hold himself out as qualified or entitled to engage in the practice of denture therapy.

Contravention of R.S.O. 1970, c. 108

(2) Any person who contravenes subsection 1 shall be deemed to be in contravention of section 21 of *The Dentistry Act*, subject to subsection 4 thereof.

Issuance of licence

5.—(1) An applicant therefor is entitled to be issued a licence by the Registrar except where,

- (a) the applicant does not have the educational qualifications or experience required by the regulations or fails to pass the examinations set by the Board;
- (b) the past conduct of the applicant affords reasonable grounds for belief that he will not carry on his practice with integrity and honesty.

Conditions of licence

(2) A licence is subject to such terms and conditions as are consented to by the applicant, imposed by the Board or prescribed by the regulations.

Expiry

(3) A licence expires one year after its issue or renewal.

Refusal to issue

6.—(1) Subject to section 8, the Registrar may refuse to issue or renew a licence to an applicant where in the Registrar's opinion the applicant is not entitled to a licence under section 5.

Suspension or revocation of licence

(2) Subject to section 8, the Registrar may suspend or revoke a licence,

- (a) for any reason that would disentitle the licensee to be issued a licence under section 5 if he were an applicant;

- (b) where the licensee is in breach of a term or condition of his licence;
- (c) where the licensee is in contravention of this Act or the regulations or of *The Dentistry Act* or any regulation or by-law thereunder; or R.S.O. 1970, c. 108
- (d) where the licensee has been guilty of professional misconduct or incompetence.

7.—(1) There shall be a board to be known as the Denture Therapists Licensing Board composed of members appointed by the Lieutenant Governor in Council, one of whom shall be designated by the Lieutenant Governor in Council as chairman. Denture Therapists Licensing Board

(2) The Board shall be composed of,

Composition of Board

- (a) four members representing the public interest;
- (b) one dental surgeon;
- (c) two denture therapists who shall be appointed as soon as practicable after the coming into force of this Act;
- (d) one dental technician registered under *The Dental Technicians Act*; R.S.O. 1970, c. 107
- (e) one dental hygienist under *The Dentistry Act*. R.S.O. 1970, c. 108

(3) Five members of the Board constitute a quorum, at least one of whom shall be a member appointed to represent the public interest. Quorum

(4) Such officers and employees as are considered necessary for the carrying out of the duties of the Board may be appointed under *The Public Service Act*. Staff
R.S.O. 1970, c. 386

(5) The members of the Board shall be paid such remuneration for their services and allowances for expenses as is fixed by the Lieutenant Governor in Council. Remuneration

(6) The Board shall,

Duties of Board

- (a) conduct the hearings and proceedings under section 8;

- (b) review the operation of this Act and the regulations and make recommendations to the Minister thereon;
- (c) set or approve examinations for the qualification of applicants for licences;
- (d) perform such other duties as are assigned to it by this Act or the regulations or by any other Act.

Notice of
proposal to
refuse or
revoke

8.—(1) Where the Registrar proposes to refuse to issue a licence or renew a licence or proposes to suspend or revoke a licence, he shall serve notice of his proposal together with written reasons therefor on the applicant or licensee.

Notice
requiring
hearing

(2) A notice under subsection 1 shall inform the applicant or licensee that he is entitled to a hearing by the Board if he mails or delivers, within fifteen days after the notice under subsection 1 is served on him, notice in writing requiring a hearing to the Registrar and the Board, and he may so require such a hearing.

Powers of
Registrar
where no
hearing

(3) Where an applicant or licensee does not require a hearing by the Board in accordance with subsection 2, the Registrar may carry out the proposal stated in his notice under subsection 1.

Powers of
Board

(4) Where an applicant or licensee requires a hearing by the Board in accordance with subsection 2, the Board shall appoint a time for and hold the hearing and, on the application of the Registrar at the hearing, may by order direct the Registrar to carry out his proposal or refrain from carrying out his proposal and to take such action as the Board considers the Registrar ought to take in accordance with this Act and the regulations, and for such purposes the Board may substitute its opinion for that of the Registrar.

Conditions
of order

(5) The Board may attach such terms and conditions to its order or to the licence as it considers proper to give effect to the purposes of this Act.

Extension
of times

(6) The Board may extend the time for the giving of notice requiring a hearing by an applicant or licensee under this section either before or after the expiration of such time where it is satisfied that there are *prima facie* grounds for granting relief to the applicant or licensee pursuant to a hearing and that there are reasonable grounds for applying for the extension, and the Board may give such directions as it considers proper consequent upon the extension.

(7) Where, before expiry of his licence, a licensee has applied for renewal of his licence and paid the prescribed fee, his licence shall be deemed to continue, Continuation of licence pending renewal]

(a) until the renewal is granted; or

(b) where he is served with notice that the Registrar proposes to refuse to grant the renewal, until the time for giving notice requiring a hearing by the Board has expired and, where a hearing is required, until the Board has made its decision.

9.—(1) The Registrar, the applicant or licensee who has required the hearing and such other persons as the Board may specify are parties to proceedings before the Board under this Act. Parties

(2) Notice of a hearing under section 8 shall afford the applicant or licensee a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence. Notice of hearing

(3) An applicant or licensee who is a party to proceedings under section 8 shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing. Examination of documentary evidence

(4) Members of the Board holding a hearing shall not have taken part before the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the Board may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law. Members holding hearing not to have taken part in investigation, etc.

(5) The oral evidence taken before the Board at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court. Recording of evidence

(6) The findings of fact of the Board pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure Act, 1971*. Findings of fact 1971, c. 47

Only
members at
hearing to
participate
in decision

(7) No member of the Board shall participate in a decision of the Board pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Board shall be given unless all members so present participate in the decision.

Release of
documentary
evidence

(8) Documents and things put in evidence at the hearing shall, upon the request of the person who produced them, be released to him by the Board within a reasonable time after the matter in issue has been finally determined.

Appeal to
court

10.—(1) Any party to the hearing before the Board may appeal from the decision of the Board to the Supreme Court in accordance with the rules of court.

Minister
entitled to
be heard

(2) The Minister is entitled to be heard by counsel or otherwise upon the argument of an appeal under this section.

Record to
be filed
in court

(3) The Board shall certify to the Registrar of the Supreme Court the record of the proceedings before the Board which, together with a transcript of the evidence before the Board, if it is not part of the Board's record, shall constitute the record in the appeal.

Powers of
court on
appeal

(4) An appeal under this section may be made on questions of law or fact or both and the court may confirm or alter the decision of the Board or direct the Registrar to do any act he is authorized to do under this Act or may refer the matter back to the Board for reconsideration by the Board as the court considers proper and the court may substitute its opinion for that of the Registrar or the Board.

Effect of
decision of
Board
pending
disposal
of appeal

(5) Notwithstanding that an applicant or licensee has appealed under this section from a decision of the Board, unless the Board otherwise directs, the decision of the Board is effective until the appeal is disposed of.

Service of
notice

11.—(1) Except where otherwise provided, any notice required by this Act to be served may be served personally or by registered mail addressed to the person to whom notice is to be given at his latest known address and, where notice is served by registered mail, the service shall be deemed to have been made on the third day after the day of mailing unless the person to whom notice is given establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice until a later date.

(2) Notwithstanding subsection 1, the Board may order ^{idem} any other method of service in respect of any matter before the Board.

12. No action or other proceeding for damages shall be ^{immunity from civil liability} instituted against the Registrar, the Board or any member of the Board or anyone acting under the authority of such Registrar, Board or member, for any act done in good faith in the execution or intended execution of his duty or for any alleged neglect or default in the execution in good faith of his duty.

13. No licensed denture therapist is liable to any action ^{Limitation for commencing actions} for negligence or malpractice, by reason of professional services requested or rendered, unless such action is commenced within two years from the date when, in the matter complained of, such professional services terminated.

14. No person who is not licensed under this Act shall hold ^{Use of title "denture therapist"} himself out as being engaged in or qualified to engage in the practice of denture therapy or use or describe himself, or permit himself to be described, as a denture therapist.

15.—(1) No denture therapist shall practise intra-oral ^{Practice under supervision of dental surgeon} procedures of denture therapy on a patient except in the office of a dental surgeon or dental clinic and under the direct supervision of a dental surgeon.

(2) Every dental surgeon who uses the services of a denture ^{Duty of dental surgeon} therapist shall personally supervise the work of the denture therapist on a patient and shall inform himself of all aspects of the progress of the work.

(3) No licensed denture therapist shall perform any act in ^{Acts outside scope of practice} the practice of dentistry except within the scope of the practice of denture therapy performed in the manner required by this Act.

16.—(1) Every person who,

Offences

- (a) knowingly furnishes false information in any application under this Act or in any statement or return required to be furnished under this Act or the regulations; or

- (b) contravenes any provision of this Act or the regulations,

is guilty of an offence and on summary conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than six months, or to both.

Limitation

(2) No proceeding under clause *a* of subsection 1 shall be commenced more than one year after the facts upon which the proceeding is based first came to the knowledge of the Registrar.

Idem

(3) No proceeding under clause *b* of subsection 1 shall be commenced more than two years after the time when the subject-matter of the proceeding arose.

Certificate
as evidence

17. A statement as to,

- (a) the licensing or non-licensing of any person;
- (b) the filing or non-filing of any document or material required or permitted to be filed with the Registrar;
- (c) the time when the facts upon which proceedings are based first came to the knowledge of the Registrar;
or
- (d) any other matter pertaining to such licensing, non-licensing, filing or non-filing,

purporting to be certified by the registrar is, without proof of the office or signature of the Registrar, receivable in evidence as *prima facie* proof of the facts stated therein for all purposes in any action, proceeding or prosecution.

Regulations

18. The Lieutenant Governor in Council may make regulations,

- (a) governing the manner in which denture therapists conduct their practice and business affairs;
- (b) defining professional misconduct;
- (c) prescribing the manner in which denture therapists may describe themselves and their practice and prohibiting the use of such descriptions in connection with any other person or activity;
- (d) governing applications for and issuing of licences to engage in the practice of denture therapy and

renewals thereof and prescribing terms and conditions of licences;

- (e) requiring the payment of fees on applications for licences and renewals and for the taking of examinations and prescribing the amounts thereof;
- (f) prescribing the qualifications of applicants for licences and renewals and providing for the holding of oral and written examinations set or approved by the Board;
- (g) prescribing procedures that may be performed as incidental to the practice of denture therapy;
- (h) requiring licensed denture therapists to make returns and furnish information to the Registrar;
- (i) requiring any information required to be furnished or contained in any form or return to be verified by affidavit;
- (j) prescribing forms for the purposes of this Act and providing for their use;
- (k) prescribing further procedures respecting matters coming before the Board;
- (l) assigning additional duties to the Board;
- (m) defining the term commercial dental laboratory and prohibiting a denture therapist from having any proprietary interest therein.

19. The moneys required for the administration of this ^{Moneys} Act shall, until the 31st day of March, 1973, be paid out of the Consolidated Revenue Fund and thereafter shall be paid out of the moneys appropriated therefor by the Legislature.

20. This Act comes into force on a day to be named by ^{Commence-} the Lieutenant Governor by his proclamation. ^{ment}

21. This Act may be cited as *The Denture Therapists Act*, ^{Short title} 1972.

